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**No Recourse to Public Funds (NRPF) and Domestic Abuse**

**A guide to addressing domestic abuse/violence with victims who are unable to access public funds due to immigration status**

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**1. Information**

**1.1 Introduction**

The purpose of this guidance is to address the increasing numbers of women with no recourse to public funds (NRPF) presenting to the Bournemouth, Christchurch and Poole Council (BCP) for assistance due to domestic abuse. The document gives guidance on local authority responsibilities to people with NRPF. It also provides information on services which people with NRPF can be referred to for assistance and support.

**1.2 What is no recourse to public funds?**

The ‘no recourse to public funds’ (NRPF) rule adversely affects women and men experiencing domestic abuse who have insecure immigration status and are subject to immigration control. People with NRPF have no entitlement to public housing or welfare benefits – including Income Support, Jobseekers Allowance, and Housing Benefit, homelessness assistance, Child Benefit, disability allowances or Working Families Tax Credit.

People with NRPF are therefore unable to access refuge spaces, as these are maintained through rental income mainly funded by housing benefit.

**1.3 Who is affected by no recourse to public funds?**

* Individuals who are regarded as ‘overstayers’ i.e. those who remain in the UK after the expiry of their visa
* Individuals who have entered and remained in the UK in a variety of capacities. These are people that have entered the UK as visitors, students, workers or have temporary admission as asylum seekers
* Individuals who are able to enter or remain in the UK providing they remain in a relationship with a partner/spouse or relative who has British Citizenship or has indefinite leave to remain[[1]](#footnote-1)

For individuals who came to the UK in order to marry or join their partner who has British Citizenship or indefinite leave to remain, the current immigration rules state that a person has to complete a five year probationary period – during which time a person must stay with their partner. During the five year probationary period a person on a spouse or partner visa will have no access to public funds. At the end of the five year probationary period an application for indefinite leave to remain can be made. If a person has come to the UK on a spouse or partner visa and is experiencing domestic abuse/violence they can apply for Indefinite Leave to Remain under the domestic violence rule and could be exempt from the five year probationary rule.

**1.4 What is the domestic violence rule?**

In 2002 the government introduced the domestic rule in immigration law, which states “if a person is married or living with a settled partner and can provide specific evidence to demonstrate that she/he is a victim of domestic abuse/violence, she/he can apply to remain in the UK indefinitely to UK Border Agency”. Evidence required is either a court conviction, police caution, non molestation order, occupation order, medical report from a GP, police report confirming they have been called out because of domestic abuse/violence, a letter from social services, letter of support from domestic violence organisation or evidence from the MARAC chair that a case has been referred to MARAC. The UKBA will require two forms of above evidence. The UKBA aim to deal with applications under the domestic violence rule within 20 working days. Once she/he is granted indefinite leave to remain they will automatically have the right to claim for public housing and benefits.

However if a person does not have evidence a letter can be submitted to the UKBA explaining what has happened and the reason there is no available evidence. These cases should be referred to local domestic abuse/violence services to enable a letter of support to be sent.

Only people who have permission to be in the UK as a spouse, civil partner or partner can make applications under the domestic violence rule. If a person is in the UK as a fiancée, student or worker they can not make an application under the domestic violence rule.

**2. What Can We Do?**

**2.1 Establishing eligibility for assistance from the Local Authority**

In assessing eligibility the Local Authority should:

* Establish whether it is “territorially responsible”

(That is whether the person is ordinarily resident in the borough)

* Carry out an immigration check to establish eligibility under immigration legislation by viewing their passport or correspondence from the UK Border Agency confirming immigration status

***A SafeLives DASH risk assessment should always be completed to identify level of risks to individuals.***

**2.2 Responsibilities of the Local Authority to people with NRPF**

All individuals presenting to a local authority requesting accommodation and subsistence should receive a humane and customer focused service.

Local Authorities should ensure a consistent response to people who request a service. It is good practice for the authority to seek a solution to the destitution faced by the person and family pursuing other options, such as voluntary return (careful consideration needs to be given to cases where they may be subject to honour based violence).[[2]](#footnote-2)

Local Authorities have a duty to provide assistance under the following legislation:

* **Children’s and Young People’s Social Care**

If the victim has children, Children and Young People’s Social Care have duty to provide assistance under section 17 and 20 of the Children’s Act 1989.

A Child In Need assessment should be completed in respect of children and families with NRPF who presents as requiring accommodation. A destitute child will be a child in need.

It shall be the general duty of every local authority to:

* Safeguard and promote the welfare of children within their areas who are in need
* Promote the upbringing of such children by their families by providing a range and level of services appropriate to those children needs

**Section 20 of the Children’s Act 1989**

Every local authority shall provide accommodation for any child in need within their area who presents to them to require accommodation as a result of-

* The person who has been caring for him/her is being prevented (whether or not permanently and for whatever reason) from providing him/her with suitable accommodation
* **Adult Social Care**

**Care Act 2014**

Under the Care Act 2014, local authorities are required to provide assistance to adults with a need for care and support due to a disability, illness or mental health condition. There are some exclusions and exceptions to receiving this assistance, although a person should not be refused assistance solely because they have NRPF. Further guidance on assessing and supporting adults who have no recourse to public funds is provided by the NRFP network.

**2.3 The Destitution Domestic Violence Concession**

The Destitution Domestic Violence Concession (DDC) allows victims of domestic abuse, who entered the UK on spousal visas and has no recourse to public funds, to access benefits and public housing while they apply for settlement under the Domestic Violence Rule.

The DDV concession is for people

* Who entered the UK on a spouse or partner visa and are eligible to apply for Indefinite Leave to Remain under the Domestic Rule 2002
* The relationship has broken down due to domestic abuse
* Do not have means to access accommodation and need financial help
* Is going to make a claim to stay permanently in the UK under the Domestic Violence Rule

It is advised that people wanting to make an application for the DDV concession seek advice from an immigration solicitor in order to check they are eligible to apply.

Once confirmation is provided that a person is eligible they need to make an application to the UK Border Agency for the DDV concession. . Applications can be made online or by post. Please note postal applications will take longer to process. Application forms can be downloaded from:

<https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence>

See Appendix A

Successful applications will be given three months limited leave to stay in the UK and access to public housing and welfare benefits.

Please note this is not an application for Indefinite Leave to Remain and an application for IDLR under the domestic violence rule will also need to be made to the UK Border Agency. It is strongly advised that advice is sought from an immigration solicitor when applying IDLR.

The DDV Concession replaces the Sojourna project.

**2.4 People that do not qualify for assistance**

If a person does not qualify for assistance from the DDV concession then referrals to the voluntary sector organisation should be considered. A list of contacts is provided at section 3.4. Referrals to local domestic abuse services should be made if the persons provides consent.

**3. Advice**

**3.1 Interpreters**

It is best practice to use an independent interpreter and not a family member. Particularly in cases where there is a suspicion of honour based violence.

The following recommendations are made for services employing interpreters:

* Ensure that staff brief and debrief interpreters prior to and following the session
* Provide the opportunity for interpreters to fully explain their role and duty of confidentiality
* Be aware throughout an interpreting session of any difficulties expressed by the service user
* Terminate the session if a service user indicates an interpreter is not suitable
* Avoid leaving service users and interpreters alone at any time before, during or after the session

Interpreting services:

* Big Word <http://www.thebigword.com/>
* Language line <http://www.languageline.co.uk/>
* <http://translate.google.com/>

**3.2 Legal Advice**

Always advise that an individual contact a solicitor as soon as possible. It must be a solicitor that provides advice around immigration issues.

Some solicitors will offer an initial interview where a person does not qualify for assistance under one of the legal aid schemes.

You can also refer to the Law Centres Federation, which provides free independent legal advice and representation to the most disadvantaged members of society.

Rights of Women provide free confidential legal advice on sexual violence, criminal, immigration and asylum law.

**Referrals to national and local voluntary agencies should be considered in all cases**

Check immigration status

**3.3 Person presents with no recourse to public funds flowchart**

Complete Community Care Assessment

No

Complete Child in Need Assessment

No

Yes

Person is on a spousal Visa

Seek advice from an immigration solicitor or the British Red Cross to assess eligibility for the Destitution Domestic Violence Concession

Yes

Person is on a spousal visa

Consult with the MASH

Yes

Does he/she have children?

No

Person has no children and or has no additional needs

Person demonstrates they have additional needs which make them vulnerable

Person is on a spousal Visa

Consult with Adult Social Care

No

Yes

Contact national agencies or refer to local services for support the domestic abuse and with immigration issues.

(British Red Cross and BCP Domestic Abuse Service

Seek advice from an immigration solicitor or the British Red Cross to assess eligibility for the Destitution Domestic Violence Concession

Seek advice from an immigration solicitor or the British Red Cross to access eligibility for the Destitution Domestic Violence Concession

**3.4 Useful Contacts**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Remit** | **Telephone** | **Website or Email** |
| **British Red Cross** | Assist with food vouchers and clothes  General specialised support  Support with applications to Home Office for Indefinite Leave Remain | 01202 656143  07738 944626 |  |
| **Broken Rainbow** | Same sex domestic abuse advice | 0300 9995428 | [www.broken-rainbow.org.uk](http://www.broken-rainbow.org.uk) |
| **Community Legal Advice** | For finding a publicly funded family immigration solicitor | 0845 3454345 | [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk) |
| **Dorset Race Equality Council** |  | 01202 392954 |  |
| **Forced Marriage Unit** | Help and advice for people being forced into marriage in the UK, and abroad.  Advice for practitioners working with people being forced to marry. | 0207 700 80151 | https://www.gov.uk/stop-forced-marriage |
| **Immigration Lawyers Practitioners Association** | For information about immigration and asylum law though their ‘Info Service’ and to find an immigration solicitor |  | [www.ilpa.org.uk](http://www.ilpa.org.uk) |
| **Karma Nirvana** | Supports victims and survivors of forced marriage and honour based abuse | 0800 5999247 |  |
| **Law Centre Federation** | Not-for-profit legal practices providing free legal advice and representation to disadvantaged people | 0207 7842 0720 | www.lawcentres.org.uk/ |
| **Migrant Helpline** |  | 01304 203977 | www.migranthelpline.org |
| **National Domestic Violence Helpline** |  | 0808 2000247 | [www.womensaid.org.uk](http://www.womensaid.org.uk) |
| **Office for the Immigration Services Commissioner** | For finding an immigration advisor |  | [www.oisc.gov.uk](http://www.oisc.gov.uk) |
| **BCP 24 hour helpline** | Provides local support for people being forced to marry or at risk of honour based violence  Refuge has space to accommodate a couple fleeing HBV. | 01202 748488 |  |
| **BCP Domestic Violence Outreach Project** |  | 01202 710777 |  |
| **Male Advice Line** | Male victims | 0808 8010327 |  |
| **Rights of Women** | For free confidential legal advice on family law including domestic abuse, divorce and relationship breakdown and issues relating to children  For free confidential legal advice on sexual violence, criminal, immigration and asylum law 020 7251 8887 or 020 7490 2562 (textphone) | 020 7251 6577or  020 7490 2562 (textphone) |  |
| **Southall Black Sisters** | SBS provides a range of advice and support services to enable black and minority women to gain the knowledge and confidence they need to assert their human rights. | 020 8571 9595 | [www.southallblacksisters.org.uk](http://www.southallblacksisters.org.uk) |
| **UK Border Agency** | EEA residency enquiries - European enquiries contact centre | 0845 010 5200 | www.ukba.homeoffice.gov.uk/ |

**PROTECTING VICTIMS OF DOMESTIC VIOLENCE (DDV) Concession**

**Notification of the need for access to public funds**

Introduction

**Please Note:**

**YOU SHOULD ONLY COMPLETE THIS NOTIFICATION IF:**

**YOU WERE ADMITTED TO, OR GRANTED AN EXTENSION TO YOUR STAY IN THE UK AS A SPOUSE, CIVIL PARTNER, UNMARRIED OR SAME SEX PARTNER OF A BRITISH CITIZEN OR PERSON PRESENT AND SETTLED IN THE UK, YOUR RELATIONSHIP HAS BROKEN DOWN DUE TO DOMESTIC VIOLENCE AND YOU ARE DESTITUTE AND IN NEED OF BENEFITS**

**You may wish to seek advice before completing this form.**

You should use this form if you want to notify us that you require access to public funds (income-related benefits) in order to find safe accommodation and support yourself before you make an application for indefinite leave on the basis that you have been a victim of Domestic Violence. Consideration will be given as to whether you should be granted limited leave to allow you access to public funds.

You do not need to use this form unless you need access to public funds before making your application on the basis that you have been a victim of domestic violence

This is NOT an application for indefinite leave to remain on the basis of Domestic Violence.

You should note that if following consideration of your notification, we grant you leave with access to public funds this will be for a limited time of only 3 months to enable you to apply for access to public funds and that it will replace your current leave. You should submit your application for settlement on the basis of domestic violence within this 3 month period. If you do not submit a further application within 3 months, any leave we grant you as a result of this notification will come to an end and you will be expected to leave the UK. It is very important that you contact the UK Border Agency (UKBA) as soon as possible if for any reason you decide not to make a settlement application or wish to discontinue your settlement application.

This is NOT an application for any specific benefit and a grant of leave with access to public funds does not guarantee eligibility for any specific benefit. If you are granted leave with access to public funds, you will still need to apply to the Department for Work and Pensions (DWP) and will need to meet their entitlement conditions for access to public funds.

If you do qualify under this concession and are issued limited leave please note that this does not guarantee that any subsequent application for indefinite leave to remain (settlement) using a SET(DV) application will be successful.

1. **Indefinite leave to remain** (**ILR**) is an immigration status granted to a person who does not hold [right of abode](http://en.wikipedia.org/wiki/Right_of_Abode_(United_Kingdom)) in the [United Kingdom](http://en.wikipedia.org/wiki/United_Kingdom) (UK), but who has been admitted to the UK without any time limit on his or her stay and who is free to take up [employment](http://en.wikipedia.org/wiki/Employment), claim welfare benefits or study, without restriction. When indefinite leave is granted to persons outside the United Kingdom it is known as **indefinite leave to enter** (**ILE**). [↑](#footnote-ref-1)
2. "Honour based violence is a crime or incident, which has or may have been committed to protect or defend the honour of the family and/or community. 'Examples may include murder, un-explained death (suicide), fear of or actual forced marriage, controlling sexual activity, domestic abuse (including psychological, physical, sexual, financial or emotional abuse), child abuse, rape, kidnapping, false imprisonment, threats to kill, assault, harassment, forced abortion. This list is not exhaustive. [↑](#footnote-ref-2)